

100 or 5/30

# Oakville Community Action Group

110 E. St. Peter Street

Belle Chasse, LA 70037

(504) 656-7705 or 656-7520

May 22, 1996

Dan Rondeau, MC-1201  
Office of Civil Rights  
U.S. EPA  
401 M Street S.W.  
Washington, D.C. 20460

3R-96-R6

Clarice Gaylord, MC-3103A  
Office of Environmental Justice  
U.S. EPA  
401 M Street S.W.  
Washington, D.C. 20460

Shirley Augurson  
Environmental Justice Coordinator  
U.S. EPA Region VI  
1445 Ross Avenue, Ste. 1200  
Dallas, TX 75202-2733

214-565-7401

Re: Discriminatory Practices by the Louisiana  
Department of Environmental Quality

Dear Mr. Rondeau, Ms. Gaylord, and Ms. Augurson:

We are writing in reference to the Louisiana Department of Environmental Quality's (DEQ) handling of a landfill, known as Industrial Pipe, Inc., adjacent to the community of Oakville, Louisiana. The lack of response to citizen concerns and complaints has left the community questioning the policies and procedures of DEQ. We believe our inability to get DEQ to protect our community from, or even respond to or investigate our complaints about, a company with no regard for the conditions of its permits is the result of environmental racism.

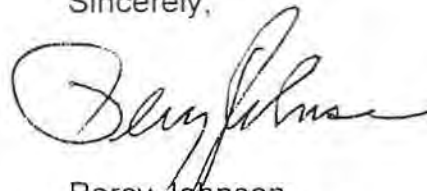
Oakville is a 130-year old African-American community in Plaquemines Parish, Louisiana. Over the years, the community has lived with horrible odors, toxic fumes, underground fires, barge fires, pests, dust, traffic problems, damage to their homes. We tried, in good faith, to work within the system that has been set up to protect the public, to no avail. We reported violations to DEQ as they occurred, participated in the public comment process, and ultimately sought legal assistance through the Tulane

*Environmental Law Clinic* At our request, the Clinic wrote the attached letter to the DEQ, the original, dated November 22, 1995, and a follow up letter requesting a response, dated March 27, 1996, addressing the issue of environmental discrimination. However, the DEQ has refused to even respond to these letters.

We are asking the Environmental Protection Agency (EPA) to begin an investigation of DEQ's policies and practices concerning Industrial Pipe, Inc., as they relate to Title VI of the Civil Rights Act of 1964. In addition, we are asking that a site investigation be conducted by EPA. We believe that hazardous materials, including transformers and possibly medical wastes, have been buried at this site since it first began operation as a landfill in the 1950's.

I have attached a history of the site, compiled from DEQ files, which summarizes Industrial Pipe's violations. There have been additional violations since this history was prepared. If you have any questions, please contact me at (504) 657-7705.

Sincerely,



Percy Johnson  
President

Enclosures

cc without enclosures:

Elliott P. Laws, MC-5101  
Assistant Administrator  
Solid Waste and Emergency Response  
U.S. EPA  
401 M Street, S.W.  
Washington, D.C. 20460

Senator J. Bennett Johnston, Jr.  
U.S. Senate  
Hart Bldg., Rm. 136  
Washington, D.C. 20510-1802

Senator John Breaux  
U.S. Senate  
516 Hart Bldg.  
Washington, D.C. 20510-1803

Congressman W.J. (Billy) Tauzin  
2183 Rayburn House Ofc. Bldg.  
Washington, D.C. 20515-1803

Congressman William Jefferson  
240 Cannon House Ofc. Bldg.  
Washington, D.C. 20515

Congressman Cleo Fields  
218 Cannon House Ofc. Bldg.  
Washington, D.C. 20515

Richard Ieyoub  
Attorney General  
State Capital  
P.O. Box 94005  
Baton Rouge, LA 70804-9125

Gary Lee  
Washington Post  
1150 15th Street  
Washington, D.C. 20071

Bob Anderson  
The Advocate  
State Capital  
P.O. Box 44485  
Baton Rouge, LA 70804

Joanna Weiss  
Times Picayune  
St. Bernard/Plaquemines Bureau  
9212 W. Judge Perez Drive  
Chalmette, LA 70043

Laura Heller  
Plaquemines Gazette/Watchman  
P.O. Box 700  
Belle Chasse, LA 70037

Chris Justice & Mark Schleifstein  
Times Picayune  
3800 Howard Avenue  
New Orleans, LA 70140

WWL TV (4)  
1024 N. Rampart  
New Orleans, LA 70116

WDSU TV (6)  
520 Royal Street  
New Orleans, LA 70130

WVUE TV (8)  
1025 S. Jefferson Davis Parkway  
New Orleans, LA 70125

# Tulane Environmental Law Clinic

6329 Freret Street  
New Orleans, Louisiana 70118-5670  
(504) 865-5789  
FAX (504) 862-8721

March 27, 1996

Certified Mail Receipt No.: P 570 307 310

Mr. Dale Givens, Secretary  
Louisiana Department of Environmental Quality  
Office of the Secretary  
7290 Bluebonnet Road  
P.O. Box 82263  
Baton Rouge, LA 70884-2263

Re: DEQ's Handling of Industrial Pipe, Inc. ("IP") Buffer Zone Waiver Forgery Issue

Dear Mr. Givens:

Our clients, the <sup>①</sup>Oakville Community Action Group and the <sup>②</sup>Louisiana Environmental Action Network (LEAN), are concerned about DEQ's handling of the investigation into the likely forgery of the buffer zone waiver which led to DEQ's issuance of transfer station permit No. P-0261 to IP on August 16, 1991. Other community organizations in the area, <sup>③</sup>Protecting Ecological and Environmental Resources (PEER), <sup>④</sup>the Cedar Grove Community Group, <sup>⑤</sup>Jesuit Bend Civic Association, and the <sup>⑥</sup>Gulf Coast Commercial Fisherman's Coalition, join the Oakville Community Action Group and LEAN in their concern about this issue.

Oakville is a minority community located in Plaquemines Parish adjacent to a landfill operated by IP. Since 1985, the Oakville Community has lived with fly infestations, obnoxious odors, toxic fumes, dust, underground fires, and traffic problems because of the landfill. On August 16, 1991, DEQ issued transfer station permit No. P-0261 to IP. IP was required under the solid waste regulations to have a 200-foot buffer zone around its facility. However, since IP's buffer zone extended into the adjoining property of late Oakville resident <sup>(b) (6) Personal Privacy</sup> Sr., IP was required by L.A.C. 33:VII.1305.A.3 to attain a waiver from the adjoining landowner. DEQ issued the permit on the assumption that the waiver submitted in IP's application was valid, and that it represented <sup>(b) (6) Personal Privacy</sup> understanding of and consent to IP's proposal to construct and operate a transfer station less than 200-feet from his property.

We have contested the validity of the waiver submitted by IP in its transfer station application since the issuance of the permit. We have also submitted several samples of Mr. Johnson, Sr.'s signature to DEQ to substantiate our claim that the signature on the waiver was forged. On September 29, 1991, Mr. Robert Kuehn of the Tulane Environmental Law Clinic met with Peter Romanowsky, William Mollere, and James Brent of the Office of Solid and Hazardous Waste. At that meeting, Mr. Kuehn presented evidence that the signature on the buffer zone waiver was forged. This evidence included the fact that the signature on the waiver



(attached as Exhibit "A") misspelled (b) (6) Personal Privacy first name, the fact that the handwriting and shape of the letters in the waiver signature are significantly different from that on an oil and gas mineral lease dated 1967 (attached as Exhibit "B"), the fact that the waiver is not dated, notarized or witnessed, and the fact that none of (b) (6) Personal Privacy's family members could recall (b) (6) Personal Privacy ever telling them that he had signed the waiver, nor do they believe he ever would have signed such a document.

On February 18, 1992, at DEQ's request, we obtained and forwarded to DEQ two more samples of (b) (6) Personal Privacy signature--driver's licenses signed by (b) (6) Personal Privacy in 1980 and 1986 respectively (attached as Exhibit "C"). Our letter (attached as Exhibit "D") which accompanied these documents pointed out the that the signature on the 1986 license, signed only 8 months before (b) (6) Personal Privacy death, was nearly identical to (b) (6) Personal Privacy signature on the 1967 oil and gas mineral lease. We requested DEQ to revoke IP's permit based on the overwhelmingly clear evidence that the buffer zone waiver had been forged and was therefore invalid. We never received a formal response to our request from DEQ.

On June 15, 1995, Tracy Kuhns of the Tulane Environmental Law Clinic and Ramona Stevens of LEAN met with Ann Coco at the DEQ Legal Division in Baton Rouge. At that meeting, Ms. Stevens asked Ms. Coco what DEQ had done about the buffer zone waiver forgery issue. Ms. Coco replied that DEQ had not moved forward because the (b) (6) Personal Privacy family had not produced additional original documents with (b) (6) Personal Privacy signature. Ms. Coco stated that once DEQ received these documents they would be sent to a handwriting expert for determination of the buffer zone waiver signature's validity. Subsequent to that meeting, Ms. Kuhns obtained an original mortgage contract and promissory note (attached as Exhibit "E") dated April 15, 1983 bearing (b) (6) Personal Privacy signature in three places. Ms. Kuhns hand-delivered the original mortgage contract and promissory note to the DEQ Legal Division on June 19, 1995.

On October 17, 1995, Ms. Kuhns and (b) (6) Personal Privacy a resident of Oakville, met with Secretary Kucharski at DEQ in Baton Rouge. Ms. Kuhns and (b) (6) Personal Privacy asked the Secretary if the handwriting expert appointed by DEQ had determined whether the buffer zone waiver was forged. Mr. Kucharski advised Ms. Kuhns and Mr. Johnson that he would inquire into the status of the handwriting expert's evaluation of the buffer zone waiver and additional original documents submitted on behalf of (b) (6) Personal Privacy family.

In a conversation between Tim Widman, a student attorney for the Tulane Environmental Law Clinic, and Ms. Coco on March 19, 1996, Ms Coco advised that the handwriting expert could not conclude whether the buffer zone waiver was forged because he would need additional original documents with (b) (6) Personal Privacy signature. Ms. Coco also indicated that the handwriting expert thought the buffer zone waiver probably was a forgery, but that more documents with (b) (6) Personal Privacy signature would be needed to make a conclusion. When Mr. Widman offered to provide an additional original document with (b) (6) Personal Privacy signature, Ms. Coco became impatient and advised that she would not assist any further in resolving the



forgery issue, citing that DEQ had already paid the handwriting expert and that the handwriting expert would probably be unamenable to conducting further evaluation of additional documents. Ms. Coco did not, however, indicate that DEQ deemed the buffer zone waiver not to be a forgery.

Our clients are discouraged by DEQ's long delay in determining that IP's buffer zone waiver is a forgery and revoking the permit. Moreover, they are concerned that DEQ's unwillingness to act more affirmatively in making a final determination of the buffer zone waiver's validity further evidences DEQ's lack of interest in minority communities. In a letter to Mr. Kucharski dated November 22, 1995 from Ms. Suzanne Smith, a student attorney for the Tulane Environmental Law Clinic, Ms. Smith expressed the Oakville Community Action Group and LEAN's concerns regarding the general policies and procedures conducted by the DEQ surrounding IP's landfill and proposed incinerator as well as a proposed incinerator owned by the Wright Group (attached as Exhibit "F"). In her letter, Ms. Smith cited evidence of DEQ's possible disparate treatment of minority communities and requested Mr. Kucharski to provide additional information clarifying DEQ's general policies and procedures. In particular, Ms. Smith noted that DEQ issued the transfer station permit to IP even though IP did not have the requisite buffer zone and a valid waiver. In sum, Ms. Smith's letter indicated our clients' belief that the DEQ's policies and procedures may raise environmental justice concerns under Title VI of the Civil Rights Act of 1964. We have still not received the information we requested from DEQ in Ms. Smith's letter.

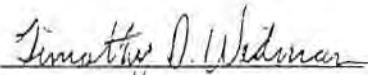
Over the course of DEQ's nearly five-year investigation of the forgery issue, DEQ has asked for and we have provided additional original documents with (b) (6) Personal Privacy signature in order to facilitate the handwriting expert's determination of the buffer zone waiver's authenticity. DEQ now acknowledges that the buffer zone waiver is probably forged but that more documents with (b) (6) Personal Privacy signature are needed by the handwriting expert to make a final determination. Nevertheless, Ms. Coco indicated that DEQ is no longer interested in accepting any more original signature examples. Therefore, DEQ's position seems to be that it is unwilling to engage the handwriting expert any further in considering any additional original signature samples we are prepared to provide in light of the overwhelming likelihood that IP's buffer zone waiver was forged. Our clients believe that DEQ's lack of interest in affirmatively resolving the buffer zone waiver's validity and/or revoking IP's permit on the basis of the abundant evidence already submitted points to a pattern of DEQ policies and procedures which may violate our clients' civil rights under Title VI of the Civil Rights Act of 1964.

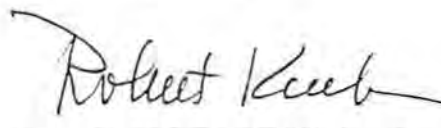
As mentioned earlier in this letter, we have obtained an additional original check with (b) (6) Personal Privacy signature. We are prepared to provide this document to DEQ if we receive assurance that the handwriting expert will use it to make a final determination of the waiver signature's validity. Therefore, we request on behalf of our clients that DEQ take the following actions: (1) agree to accept any additional original documents with (b) (6) Personal Privacy signature in order that the handwriting expert may make a final determination of the waiver signature's validity; and (2) immediately revoke IP's permit under La.R.S.

30:2023(B). The material misrepresentation or withholding of information in a permit application is grounds for revocation of the permit. See Environmental Control Commission v. Browning-Ferris Industries, 450 So.2d 1292, 1298 (La. 1984). Moreover, because the waiver was forged, and is thus invalid, the entire permit is rendered invalid since L.A.C. 33:VII.1305.A.3.d. requires the inclusion of a valid waiver in the permit application. We also again request that the DEQ provide the responses requested in our November 22, 1995 letter regarding DEQ policies and procedures.

We would appreciate your immediate response to this letter.

Sincerely,

  
Timothy D. Widman  
Student Attorney

  
Robert R. Kuehn  
Supervising Attorney

Attachments

cc: Herman Robinson, Assistant Secretary, Legal Affairs  
Rose Jackson and Percy Johnson, Oakville Community Action Group  
Marylee Orr, Louisiana Environmental Action Network  
Pat McCabe, Jesuit Bend Civic Association  
Mark McGee, Cedar Grove Community Group  
Mike Roberts, Gulf Coast Commercial Fisherman's Coalition  
Ann Williams, Protecting Ecological and Environmental Resources



# Tulane Environmental Law Clinic

---

6329 Freret Street  
New Orleans, Louisiana 70118-5670  
(504) 865-5789  
FAX (504) 862-5721

November 22, 1995

By Certified Mail: P 570 307 285

William Kucharski, Secretary  
Louisiana Department of Environmental Quality  
Bluebonnet Road  
P.O. Box 82263  
Baton Rouge, LA 70884-2263

Re: Handling of Industrial Pipe, Inc. and Wright Group

Dear Mr. Kucharski:

The Oakville Community Action Group ("OCAG") and the Louisiana Environmental Action Network ("LEAN") have some concerns regarding the general policies and procedures conducted by the DEQ surrounding a landfill and a proposed incinerator owned by Industrial Pipe, Inc. and also a proposed incinerator owned by the Wright Group. Both of these sites are adjacent to the Oakville community. OCAG and LEAN believe that the policies and practices of the DEQ may raise environmental justice concerns under Title VI of the Civil Rights Act of 1964.

Oakville is a minority community located in Plaquemines Parish, Louisiana adjacent to a landfill operated by Industrial Pipe, Inc. Since 1985, the Oakville community has lived with fly infestations, obnoxious odors, toxic fumes, dust, underground fires, and traffic problems because of the landfill. The DEQ has identified numerous violations of Industrial Pipe's existing permits. However, new permits and permit modifications continue to be approved for the same site. The citizens of Oakville believe that the DEQ's failure to enforce the law, its continuous approval of permits and permit modifications for this particular site, and the manner in which such oversight and approval has been received, is a result of the DEQ's lack of interest in minority communities. This lack of interest manifests itself in the manner in which the DEQ has

not forced Industrial Pipe into compliance and has provided permit approval without appropriate procedures or standards.

The Wright Group originally planned to use a mobile incinerator to burn sewage treatment sludge from New Orleans and nonhazardous oilfield waste ("NOW"), in addition to nonhazardous industrial waste. The site for this mobile incinerator was located behind the Oakville community. This placement may have subjected Oakville residents to obnoxious odors. It also would have placed the Oakville residents within a vulnerable zone for toxic fumes and potential fires because of the site's proximity to the community and because of the need to use a large amount of fuel in order to operate the incinerator. Although the DEQ issued permit approvals, the Wright Group recently decided not to operate such a facility on that proposed site after receiving much opposition from the residents of Oakville. However, OCAG and LEAN have some concerns regarding the practices and procedures used by the DEQ during the Wright Group's permit processing.

In order for the community to better understand and evaluate the DEQ's actions, we request that the DEQ respond to the following questions.

I. Riverside Recycling & Disposal, a division of Industrial Pipe, submitted an application and an Emission Inventory Questionnaire dated October 4, 1993, for modification of an air permit originally approved in 1987. This permit modification consisted of the installation of a Pactherm Flip Top Controlled Air Burner and the installation of a 20 foot Pactherm Pit Burner instead of a 40 foot Pactherm Pit Burner. However, the DEQ later decided to treat the application and questionnaire as a request for a new air permit and not for an air permit modification.

1. Has the DEQ determined that an application for a permit modification for any other facility was actually an application for a new permit at any other time since January 10, 1992?
2. What is the procedure the DEQ follows when it determines that an application and an Emission Inventory Questionnaire for a permit modification are actually for a new permit?
3. Has the DEQ issued a new permit which originated from an application for a permit modification since January 10, 1992 without a comment period or a public hearing? If so, what communities were affected?
4. What is the racial, ethnic, and socio-demographic composition of the affected communities?
5. What are the names of the DEQ employees who were involved in any part of this permitting process?

II. On August 16, 1991, your office issued a permit to Industrial Pipe for a transfer station. The transfer station did not have the requisite buffer zone and Industrial Pipe did not receive a valid waiver from adjoining landowners.

1. In terms of the buffer zone requirement:

- a. Has the DEQ authorized a solid waste permit for any other facility without the requisite buffer zone since January 10, 1992?
- b. On how many occasions was the buffer zone requirement waived since January 10, 1992?
- c. If the DEQ has authorized such a permit, which communities did that determination effect?
- d. What is the racial, ethnic, and socio-demographic composition of the majority population of those affected communities?
- e. What are the names of the DEQ employees who were involved with the authorization of this permit?

2. In terms of the invalid waiver from adjoining landowners:

- a. Is it the DEQ's policy to approve permits which contain invalid waivers? If not, what is DEQ's policy regarding the authorization of permits which contain invalid waivers?
- b. Has a solid waste permit been approved without a valid waiver in other communities? If so, which communities were affected?
- c. What was the racial and ethnic composition of those communities affected by such a permit authorization?
- d. What are the names of the DEQ employees who were involved with this particular permit approval?
- e. What is DEQ's course of action once it has determined that a waiver is invalid?
- f. Has the DEQ employed this course of action since January 10, 1992? If so, please identify the steps taken to address the situation.
- g. In what communities has DEQ employed this course of action?



h. What was the racial and ethnic composition of the communities in which this course of action was employed?

i. Has the DEQ taken any action on the issue regarding the forged waiver used by Industrial Pipe for the implementation of the transfer station? If so, what steps have been taken to resolve the issue of an invalid waiver in this case specifically?

j. What are the names of the DEQ employees who have taken any action to resolve this issue?

✓ III. DEQ prohibits new construction and/or manufacturing expansions into areas of known soil and/or groundwater contamination. It also prohibits the issuance of any permits unless a soil and/or groundwater assessment has been conducted in areas where probable cause exists for site contamination, either because of the history of the site or because of the site's proximity to areas of known contamination. Although this policy has been invoked, it has not been enforced on several occasions, including one with Industrial Pipe.

1. What is DEQ's policy and practices regarding the implementation of recommendations of its groundwater assessment staff?

2. Which communities were affected by the DEQ's decision not to implement the recommendations of its groundwater assessment staff?

3. What is the racial and ethnic composition of the affected communities?

4. What are the names of the DEQ employees who disregarded the internal recommendations?

5. Has the DEQ disregarded recommendations from its groundwater assessment staff at any time since January 10, 1992?

6. Does the DEQ require groundwater assessments of proposed sites listed in permit applications? If so, when are these assessments required?

9. Are there situations in which the groundwater assessments are not required? If so, what situations do not require a groundwater assessment?

10. Have other permits been authorized since January 10, 1992, even though there was a probability of groundwater contamination, by the DEQ?

11. If so, in what communities have permits been authorized under these conditions?

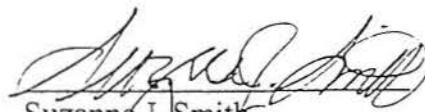
12. What is the racial and ethnic background of the citizens in those communities?

IV. On July 28, 1995, the DEQ approved a request for a major permit modification for an incinerator owned by the Thermal Environmental Corporation and leased by the Wright Group without a notice and comment period for the public.

1. What is the DEQ's policy regarding when the public notice and comment period should be used for air and solid waste permit modifications?
2. Has the DEQ not held a notice and comment period for the public when considering a non-major permit modification at any time since January 10, 1992?
3. Which communities have been affected by this practice, if any?
4. What is the racial, ethnic, and socio-demographic composition of the residents of those affected communities?
5. What are the names of the DEQ employees who were involved in this type of permitting process?

Thank you for taking the time to consider and also to answer these questions for OCAG and LEAN. These groups have very serious concerns about the policies and practices of the DEQ when it regulates the operations performed at the Industrial Pipe and Wright Group facilities. The answers to these questions will enable them to understand when and how the DEQ helps to protect their communities from environmentally harmful facilities.

Sincerely,

  
Suzanne J. Smith  
Student Attorney

Robert R. Kuehn  
Supervising Attorney

cc: OCAG  
LEAN  
Office of Civil Rights, U.S. Environmental Protection Agency



# Oakville Community Action Group

110 E. St. Peter Street

Belle Chasse, LA 70037

(504) 656-7705 or 656-7520

November 9, 1995

Mr. William Kucharski  
Secretary  
Dept. Of Environmental Quality  
P.O. Box 82263  
Baton Rouge, LA 70884-2263

## RE: INDUSTRIAL PIPE INCINERATORS

Dear Mr. Kucharski:

We are writing to record our meeting with you and other officials at DEQ headquarters in Baton Rouge on October 17, 1995. Witnesses at the meeting were (b) (6) Personal Privacy, and Percy Johnson of Oakville; Joanna Weiss of the Times Picayune; (b) (6) Personal Privacy of the Louisiana Environmental Action Network; Audrey Evans and Tracy Kuhns of the Tulane Environmental Law Clinic; and W.A. Kucharski and Larry Devillier of DEQ. Although William Mollere, Assistant Secretary of the Solid Waste, was invited to the meeting, he did not come, even after the LRRDA meeting ended. The following is based on our notes and recollection of the meeting.

Before our meeting with you, we talked with DEQ Air Division Assistant Secretary Gus Von Bodungen in the hallway. He told us that Larry Devillier was in the process of responding to the letter by the Tulane Environmental Law Clinic challenging the validity of the modifications to the 1987 air permit to Industrial Pipe. We asked Mr. Von Bodungen about the process for renewing permits that have expired. He told us that permits can be renewed after two years, that "They have to come back in and renew it." He said that in the case of Industrial Pipe, "we just used the same number for the renewal," indicating that this was not usually the way it was done. He said that since the modification was for a burner one-half the size of the originally permitted one, that this process was not a problem. With the second modification, two twenty-ton units are allowed, rather than one forty-ton unit. Mr. Von Bodungen was clearly perturbed at being asked questions in the hallway, and quickly exited.

Our meeting with you began with our question as to whether LRRDA letters can be rescinded, given the fact that the LRRDA Board had met the same day and expressed uncertainty about the matter. You responded that the Board probably has the power to rescind letters, with additional information, and that this was up to the LRRDA Board to decide.

On the question of the process for renewing expired permits, you said that "Generally a new application is required if a permit expires, or the permit can be transferred to new entities." Larry Devillier, Air Quality Division Supervisor of Permits and Engineering, responded that: According to the General Conditions for permits, if a permit expires, the company can send a letter saying that

"A"

it still wants to operate, then the permit can be renewed. Mr. Devillier said that the Industrial Pipe air renewal "should have been processed as a new application and the renewal should have been issued as a new permit. Except that the renewal has the same number [as the original], it is a new permit." Mr. Devillier said that he "did not think that the emissions are high enough for the permit process...like, for example, if there were 100 tons of one pollutant or a PSD. Or, if the public were interested, it might go to notice." It seems apparent to us that their so called renewal was not properly handled and we heard nothing to counter our believe that Industrial Pipe does not presently have a valid permit to construct or operate any incinerator.

On the question of whether notice should have been provided for the Industrial Pipe air permit modifications, you responded "we probably screwed up. Notice should've gone out." Mr. Devillier stated that "notification goes to the parish when the company applies."

Mr. Devillier showed us a document dated 11/15/93, an Emissions Inventory Questionnaire for "Riverside Recycling, for Type IIA facility with recycling and transfer and Type III construction-debris landfill." He seemed to indicate that this document served as the renewal application for the air permit, although he referred to no provision in any law that would allow this nor did he explain how a form labeled "questionnaire" becomes a permit renewal application. He also did not explain how one could renew a permit that had already expired because of a failure to comply with its express terms. He said that minor modifications to a non-major source of pollution did not garner much interest from the DEQ, except under special circumstances.

On the question of the allegedly forged buffer zone waiver, you stated that even if the waiver were deemed to be a forgery that variances can be granted on buffer zone waivers.

Then our conversation turned to the Wright Group's sewage sludge incinerator. Percy Johnson and others cited a number of incorrect statements of fact in the company's application, such as the distance from the nearby communities, the "wooded area" between residents and the company, wetlands, etc. You expressed concern, should these prove to be false statements on the part of the company.

On the notice question for the solid waste exemption (and the air modification), you said it "should've been noticed" to the community directly and to the parish, and you promised to do it next time. You said that "procedures were not followed."

When asked for background on the proposal, given the quick approval signed by Fil Bordelon for you, you responded that "There were no meetings that I recall on it, that I was involved with." You acknowledged that you were ultimately responsible for the action.

When we raised questions regarding the air authorization for the sewage sludge burner, you responded that "Three-fourths of communities dry their sewage sludge," indicating that the process was not experimental, and that we should not worry about the one-year time allowed for operation before a solid waste permit would be required.

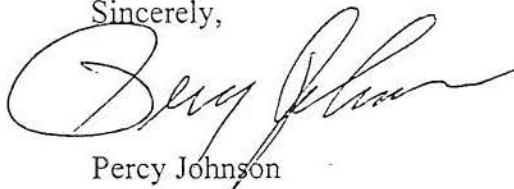
Mr. Devillier assured us that the company would notify DEQ if it moved the burner. (This

was no consolation to us, as the public would not be informed.)

In closing, you agreed to give notice if any sewage sludge other than that from New Orleans were to be taken by the company. You said that the company would have to reapply for the permit/exemption, that full notice and opportunity to comment on any such application would be provided next time.

We appreciate your taking time out to meet with us, and we hope that further meetings of this nature will not be necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "Percy Johnson", written over the printed name.

Percy Johnson

cc Gus Von Bodungen

Larry Devillier

William Mollere

Joanna Weiss

Tulane Environmental Law Clinic

Louisiana Environmental Action Network



# Tulane Environmental Law Clinic

7039 Freret Street  
New Orleans, Louisiana 70118  
(504) 865-5789  
FAX (504) 865-6748

January 24, 1992

Mr. William Davis  
Office of Air Quality and Radiation Protection  
Louisiana Department of Environmental Quality  
P.O. Box 44307  
Baton Rouge, LA 70804-4307

Re: Air Permit No. 2240-00047-00 (Industrial Pipe)

Dear Mr. Davis:

Thank you for responding to our January 15th letter. I am writing to confirm our telephone conversation on Wednesday, January 22, 1992 concerning Industrial Pipe's ("IP") air permit for the construction and operation of a Pactherm pit burner. As we discussed, the Department of Environmental Quality ("DEQ") considers IP's permit as invalid because it failed to conform with condition IV of the general conditions applicable to Louisiana air emission permits issued in 1987. You indicated that the DEQ has no information or records that IP has fulfilled the requirements of the condition--to have either constructed the source/burner or entered into a binding obligation to have the source constructed within two years of the permit's issuance.

Because the permit is invalid, any attempt by IP to construct or operate the facility without seeking a new permit would be a violation of the Louisiana Air Quality Regulations. We are thus advising our clients, the Oakville Community Action Group, Protecting Ecological and Environmental Resources, the Cedar Grove Community Group and the Louisiana Environmental Action Network, and the community to notify us and both the DEQ Metairie Regional Office and the Baton Rouge Office should they see any evidence of construction or operation of a pit burner. If such construction or operation occurs, we would expect the DEQ to take appropriate action.

Please inform me immediately if this does not accurately reflect the DEQ's position on the status of the IP permit.

Respectfully submitted,



Neil D. Kelly,  
Student Attorney

cc: Rose Jackson, Oakville Community Action Group  
Ann Williams, Protecting Ecological and Environmental  
Resources  
Mary Fauchaux, Cedar Grove Community Group  
Marylee Orr, Executive Director, Louisiana Environmental  
Action Network

# Tulane Environmental Law Clinic

---

7039 Freret Street  
New Orleans, Louisiana 70118  
(504) 865-5789  
FAX (504) 865-6748

January 15, 1992

Gustave A. von Bodungen  
Assistant Secretary  
Office of Air Quality and Radiation Protection  
Louisiana Department of Environmental Quality  
P.O. Box 44307  
Baton Rouge, LA 70804-4307

Re: Air Permit No. 2240-00047-00 (Industrial Pipe)

Dear Mr. von Bodungen:

I am writing on behalf of the Oakville Community Action Group, Protecting Ecological and Environmental Resources ("PEER"), the Cedar Grove Community Group and the Louisiana Environmental Action Network ("LEAN"), with regard to Air Permit No. 2240-00047-00, issued July 1, 1987 to Industrial Pipe, Inc. ("IP"). Based upon our understanding and interpretation of the permit and Department of Environmental Quality regulations, the permit is no longer valid because of the permittee's failure to comply with the Louisiana air emission general conditions applicable to the permit.

IP's permit is invalid under condition IV of the general conditions applicable to Louisiana air emission permits issued in 1987. As condition IV clearly sets out, within two years after receipt of the permit, IP was required to have either constructed the source or have entered into a binding obligation to have the source constructed (a copy of the air permit is attached). IP has failed to meet either of these requirements. Further, IP has not sought the Secretary's approval to extend the time period as allowed under the condition.

IP has thus failed to comply with the express language of general condition IV. As such, IP must apply for a new air permit before it can commence operations.

We have informed our clients and the community of the invalidity of IP's permit. We would like to know the agency's position on this matter and what, if any, action it intends to take. Further, please contact me immediately if my



interpretation of the status of the permit is incorrect.

Respectfully submitted,

  
Neil D. Kelly,  
Student Attorney

  
Robert R. Kuehn,  
Director

cc: Rose Jackson, Oakville Community Action Group  
Ann Williams, Protecting Ecological and Environmental  
Resources  
Mary Fauchaux, Cedar Grove Community Group  
Marylee Orr, Executive Director, Louisiana Environmental  
Action Network



State of Louisiana  
Department of Environmental Quality



Edwin W. Edwards  
Governor

William A. Kucharski  
Secretary

Mr. Kenny Stewart  
President  
Riverside Recycling & Disposal  
11266 Highway 23  
Belle Chasse, LA 70037

Dear Mr. Stewart:

RE: Permit Modification, Industrial Pipe Company, Riverside  
Recycling & Disposal, Belle Chasse, Plaquemines Parish,  
Louisiana

This is to inform you that the permit modification requested for the above referenced facility has been approved under LAC 33:III.501. The submittal was approved on the basis of the emissions reported and the approval in no way guarantees the design scheme presented will be capable of controlling the emissions as to the types and quantities stated. A new application must be submitted if the reported emissions are exceeded after operation begins. The synopsis, data sheets and conditions are attached herewith.

It will be considered a violation of the permit if all proposed control measures and/or equipment are not installed and properly operated and maintained as specified in the application.

The permit number cited below should be referenced in future correspondence regarding this facility.

Done this 29<sup>th</sup> day of FEB., 1994.

Permit No.: 2240-00047-01

Very truly yours,

*Gustave A. Von Bodungen*  
Gustave A. Von Bodungen, P.E.  
Assistant Secretary

GVB/AJF  
cc: Southeast Regional Office



OFFICE OF AIR QUALITY P.O. BOX 82135 BATON ROUGE, LOUISIANA 70894 2135

AN EQUAL OPPORTUNITY EMPLOYER



AIR PERMIT BRIEFING SHEET  
AIR QUALITY DIVISION  
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

INDUSTRIAL PIPE COMPANY  
RIVERSIDE RECYCLING & DISPOSAL  
BELLE CHASSE, PLAQUEMINES PARISH, LOUISIANA

I. BACKGROUND

Industrial Pipe Company, Riverside Recycling & Disposal, was operating under Permit No. 2240-00047-00, issued July 1, 1987. Permit No. 2240-00047-00 gave approval to install and operate a 40 ft. Pactherm Pit Burner. A 20 ft. Pactherm Pit Burner was installed and operated. The change in pit burner size is addressed in this permit modification.

II. ORIGIN

An application and an Emission Inventory Questionnaire (EIQ) were received on October 14, 1993, requesting a modification to the permit referenced above.

III. DESCRIPTION

Industrial Pipe Company, Riverside Recycling & Disposal, requests changing the Pactherm Pit Burner description to a 20 ft. unit. Industrial Pipe proposes to install another Pactherm Controlled Air Burner equipped with an afterburner for type 0 and 1 waste. This unit will burn wood, paper, cardboard, and plastic bags from commercial establishments in addition to a small amount of food scraps from cafeterias.

The estimated emissions in tons per year from the facility are as follows:

EMISSIONS SUMMARY

<u>Pollutant</u>	<u>Current</u>	<u>Proposed</u>	<u>Change</u>
PM <sub>10</sub>	13.9	15.7	+ 1.8
SO <sub>2</sub>	10.8	12.7	+ 1.9
NO <sub>x</sub>	14.9	15.1	+ 0.2
VOC	9.0	9.1	+ 0.1
CO	11.9	12.0	+ 0.1